

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

AL'S DISCOUNT PLUMBING,	:	CIVIL ACTION NO. 1:19-CV-159
ACCURATE BACKFLOW AND	:	
PLUMBING SERVICES, INC.,	:	(Judge Conner)
HOMESTEAD HEATING &	:	
PLUMBING, LLC, AIRIC'S HEATING	:	
& AIR CONDITIONING, INC.,	:	
PRIME SOURCE PLUMBING &	:	
HEATING CORP., RYAN PLUMBING,	:	
INC., MAZZOLA PLUMBING	:	
HEATING & GAS FITTING, INC.,	:	
ALL KNIGHT PLUMBING, HEATING	:	
AND AIR CONDITIONING, INC.,	:	
PLUMB PERFECTION, LLC,	:	
individually and on behalf of all others	:	
similarly situated,	:	
	:	
Plaintiffs	:	
	:	
v.	:	
	:	
VIEGA, LLC,	:	
	:	
Defendant	:	

ORDER

AND NOW, this 15th day of December, 2020, upon consideration of the motion (Doc. 104) for final approval of class action settlement, wherein plaintiffs seek, *inter alia*, final approval of the class settlement and final certification of the Settlement Classes, and the court observing that plaintiffs' brief is silent as to the requirement of "ascertainability" in Rule 23(b)(3) class action cases, (see Doc. 104-1 at 5-8; see also Doc. 92 at 7-12), and the court further observing that "[a] plaintiff seeking certification of a Rule 23(b)(3) class must prove by a preponderance of the evidence that the class is ascertainable," *Byrd v. Aaron's Inc.*, 784 F.3d 154, 163 (3d

Cir. 2015), as amended (Apr. 28, 2015) (citing Hayes v. Wal-Mart Stores, Inc., 725 F.3d 349, 354 (3d Cir. 2013)), and that ascertainability requires that “(1) the class is ‘defined with reference to objective criteria’; and (2) there is ‘a reliable and administratively feasible mechanism for determining whether putative class members fall within the class definition,’” id. (quoting Hayes, 725 F.3d at 355), it is hereby ORDERED that the parties shall either submit a supplemental brief regarding ascertainability in advance of the December 17, 2020 final approval hearing or be prepared to address the matter at the final approval hearing.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner
United States District Judge
Middle District of Pennsylvania